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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 CARL MARCUS GUILFORD,

Case No. 2:17-cv-01236-APG-PAL

10 Petitioner,

ORDER

11 v.

12 SHERIFF JOE LOMBARDO, et al.,

13 Respondents.

14 Petitioner Carl Marcus Guilford has submitted what he has styled a *pro se* petition
15 for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). The petition is
16 not on the court's required form. Moreover, petitioner has failed to submit an application
17 to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been
18 properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

19 Thus, the present action will be dismissed without prejudice to the filing of a new
20 petition in a new action with either the \$5.00 filing fee or a completed application to
21 proceed *in forma pauperis* on the proper form with both an inmate account statement for
22 the past six months and a properly executed financial certificate.

23 It does not appear from the papers presented that a dismissal without prejudice
24 will materially affect a later analysis of any timeliness issue with regard to a new action
25 filed in a timely manner after petitioner has exhausted all available state remedies.¹
26 Petitioner at all times remains responsible for properly exhausting his claims, for

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28 ¹ The papers that petitioner has attached to his filing appear to indicate only that he filed a state habeas
corpus petition when he was a pretrial detainee, and the state district court denied the petition on July 31,
2012 (ECF No. 1-1, pp. 10-11).

1 calculating the running of the federal limitation period as applied to his case, and for
2 properly commencing a timely-filed federal habeas action.

3 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice to
4 the filing of a new petition in a new action with a properly completed application form to
5 proceed *in forma pauperis*.

6 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as jurists
7 of reason would not find the court's dismissal of this improperly commenced action
8 without prejudice to be debatable or incorrect.

9 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each
10 of an application form to proceed *in forma pauperis* for incarcerated persons and a
11 noncapital Section 2254 habeas petition form, one copy of the instructions for each form,
12 and a copy of the papers that he submitted in this action.

13 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
14 and close this case.

15 DATED: 17 November 2017.

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17 ANDREW P. GORDON
18 UNITED STATES DISTRICT JUDGE
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